

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

J.L. BOYD, R. CAMOU, and C.
ROBINSON,

Plaintiffs,

v.

ROBERT LUNA, KATHRYN BARGER,
JANICE HAHN, HOLLY MITCHELL,
HILDA SOLIS, LINDSEY HORVATH,
HUGO MACIAS, and 9 UNKNOWN
NAMED DEFENDANTS,

Defendants.

CASE NO.: 2:24-cv-05716-SPG-AJR

Hon. Sherilyn Peace Garnett

**[PROPOSED] ORDER
SUSTAINING DEFENDANTS'
EVIDENTIARY OBJECTIONS AND
STRIKING PLAINTIFFS' RULE
28(J) ANALOG IN SUPPORT OF
MOTIONS FOR CLASS
CERTIFICATION AND
PRELIMINARY INJUNCTION
(DKT. 43)**

1 On October 18, 2024, Defendants Robert Luna, Kathryn Barger, Janice Hahn,
2 Holly Mitchell, Hilda Solis, Lindsey Horvath, and Hugo Macias (collectively,
3 “Defendants”) filed evidentiary objections and a request to strike Plaintiffs J.L. Boyd,
4 R. Camou, and C. Robinson’s (“Plaintiffs”) Rule 28(j) Analog in Support of Motions
5 for Class Certification and Preliminary Injunction (Dkt. 43, “Plaintiffs’ Rule 28(j)
6 Analog”).

7 Rule 28(j) of the Federal Rules of Appellate Procedure is inapplicable to this
8 action, and there is no provision in the Federal Rules of Civil Procedure providing for
9 Plaintiffs’ submission. In addition, Plaintiffs’ submission denies Defendants the
10 opportunity to submit an authorized response in violation of their due process rights.
11 *See Zamani v. Carnes*, 491 F.3d 990, 997 (9th Cir. 2007) (“The district court need not
12 consider arguments raised for the first time in a reply brief.”); *Stuart v. Cnty. of*
13 *Riverside*, 2024 WL 3455263, at *10 n.15 (C.D. Cal. Apr. 22, 2024) (Garnett, J.) (citing
14 *Zamani* for the proposition that arguments not raised in opening briefing can be
15 disregarded); *Wallster, Inc. v. Redbubble, Inc.*, 2022 WL 17371051, at *5 n.4 (C.D.
16 Cal. Oct. 21, 2022) (Garnett, J.) (declining to consider argument raised for the first time
17 in reply brief). Further, Plaintiffs’ submission is inadmissible because it is irrelevant to
18 the pending motions and constitutes hearsay. *See Fed. R. Evid.* 402, 802; *Perry v.*
19 *Kemna*, 356 F.3d 880, 889 (8th Cir. 2004).

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1 The Court, having considered Defendants' Evidentiary Objections and Request
2 to Strike Plaintiffs' Rule 28(j) Analog and finding good cause therefor, hereby
3 SUSTAINS Defendants' evidentiary objections, GRANTS Defendants' request to
4 strike, and ORDERS as follows:

5 Plaintiffs' Rule 28(j) Analog is stricken and the Court will not consider it in
6 connection with Plaintiffs' motions for class certification and preliminary injunction.

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8 IT IS SO ORDERED.

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10 DATED: _____

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12 HON. SHERILYN PEACE GARNETT
13 UNITED STATES DISTRICT JUDGE
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